IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 7520 of 2007(S)

AGAINST THE ORDER IN IA 897/2005. IN
OP.61/2004 of FAMILY COURT,TRIVANDRUM
.....

PETITIONER:

FREDINENT EDWARD, S/O B.C.EDWARD,
T.C.13/57-15,FLAT NO.7, PILLA VEEDU FLATS,
ANJALI NAGAR, PETTAH, THIRUVANANTHAPURAM DIST.

BY ADV. SRI.M.R.RAJESH
SMT.BINDHYA JOSE

RESPONDENTS:

MARY EDWARD, W/O LATE B.C.EDWARD,
THANK VIEW, KUNNUKUZHY P.O.,
THIRUVANANTHAPURAM.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

W.P.(C) No.7520 of 2007

Dated 8th March, 2007.

J U D G M E N T

Kurian Joseph, J.

Challenge is on Ext.P6 order passed by the Family Court, Thiruvananthapuram in I.A.No.897/05 in O.P.61/04. Though the matter was extensively argued by the learned counsel for the petitioner on the jurisdiction, maintainability etc., ultimately, only two reliefs were pressed before us; (1) the Original Petition, O.P.No.61/04 filed by the respondent may be directed to be disposed of expeditiously and (2) the Family Court may be directed to consider the claim on merits, untrammelled by any of the observations or stand regarding the merits in the impugned order.

2. Petitioner is the respondent in the petition for maintenance. Respondent is the step-mother. She claims maintenance on the basis of a will. The genuineness of the will was challenged by her in O.S.113/2000 on the file of the Sub Court, Attingal. That entered in dismissal. The genuineness was upheld. Now she has filed a petition for maintenance on the basis of a clause in the will. The Family Court has held that the petition is maintainable before the said court and that it has jurisdiction.

In the nature of the reliefs pressed before us, and in the nature of the order we propose to pass in this case, it is not necessary to go into the various contentions taken by the learned counsel for the petitioner and it is also not necessary to issue notice to the respondent since no prejudice as such would be caused to her by this judgment.

3. There will be a direction to the Family Court, Thiruvananthapuram to dispose of O.P.No.61/04 within a period of four months from the date of receipt of a copy of this judgment. It is made clear that the matter shall be considered on merits, untrammelled by the observations, if any, contained in the impugned order. Needless also to say that we have not considered this writ petition on merits and the entire contentions are left open.

The Writ Petition(Civil) is disposed of as above.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.